IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 4732 of 2005

Between:

The Indian Hume pipes Co., Ltd., Having its Branch Office at
1-8-657 Azamabad, Hyderabad-20 regd. Office at
Construction House, 5, Walchand Hirrachand Marg, Ballard Estate Mumbai 400 001, repby Project Manger Sri M.S.
Ramanadhan

..... PETITIONER

AND

1 The Regional Director, Employees State Insurance
Corportion 5-9-23, Hill Fort Road, Hyderabad
2 The Recovery Officer, Employees State Insurance
Corporation 5-9-23, Hill Fort Road, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondent corporation in issuing demand notice dt 21-2-2005 vide proceedings NO. AP/INS, I/52-0103-52/16 for the years April 1998 to March 2001 applying the EXI Act to the petitioner company while the issue is decided by the ESI Court in Favour of the Petitioner, as illegal and arbitrary and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.C.RAGHU

Counsel for the Respondents: B.G.Reddy, Standing Counsel.

The Court, at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 4732 of 2005

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ORDER:

Declaring the action of the respondent-Corporation in issuing demand notice dated 21-02-2005 vide proceedings No.AP/Ins.I/52-0103-52/16 for the years April, 1998 to March, 2001 applying the Employees State Insurance Act, 1948 (for brevity 'the Act, 1948) to the petitioner company, as illegal and arbitrary, the present writ petition has been filed.

2. The learned counsel for the petitioner-company contended that the dispute raised in the present writ petition was resolved in E.S.I.Case No.98 of 2000 by the competent Court and therefore, for the same subject matter, but only for the different period, issuing demand notice is illegal.

3 . On the other hand, the learned standing counsel for the respondent-Corporation contended that as per Section 75 of the Act, 1948, an alternative efficacious remedy is available to the petitioner. Therefore, the petitioner has to exhaust his remedies in the appropriate forum.

4. On considering the submissions made by the counsel for the parties, there cannot be any dispute for seeking alternative remedies under appeal by invoking the jurisdiction of this Court under Article 226 of the Constitution of India under three circumstances viz., when there is principles of natural justice have been violated or the person or the authority who issued the impugned order has no jurisdiction at all and when the findings are not at all based upon the evidence, then only the petitioner can invoke the jurisdiction of this Court. The issues relates to the questions as to whether the petitioner-company is a principal employer or not and whether the contractor is paying the amount or not are required to be decided and determined by the competent forum under the Employees State Insurance Corporation.

5. Therefore, without entering into the merits of the case, the writ petition is disposed of directing the petitioner to avail alternative remedy provided for under the Act, 1948 in the appropriate forum. No costs.

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Kvr March 10, 2005

To

1 The Regional Director, Employees State Insurance Corportion 5-9-23, Hill Fort Road, Hyderabad
2 The Recovery Officer, Employees State Insurance Corporation 5-9-23, Hill Fort Road, Hyderabad

3 2 C.D copies.